

□ 1503

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 33, CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 217 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 217

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 33) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution and any amendment thereto to final passage without intervening motion except: (1) two hours of debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; (2) an amendment in the nature of a substitute, if offered by Representative Conyers of Michigan or his designee, which shall be considered as read and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. FOLEY). The gentleman from Florida (Mr. GOSS) is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MOAKLEY), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this is a fair and appropriate rule for consideration of a constitutional amendment. This is not something we do every day. The rule provides the minority with two bites at the apple by making in order a substitute as well as the motion to recommit. It should engender no opposition, and I urge all Members to support this rule.

Mr. Speaker, the United States flag is a cherished symbol of the very best our Nation represents. It signifies the lasting ideals that have come to define our Nation, ideals that men and women have risked and often lost their lives for; ideals like freedom.

There are some well-intentioned, honorable Americans who will assert that it is precisely this freedom that allows us to defile our flag. I politely disagree with those folks. The flag may be just a symbol, but burning it flies in

the face of the respect that we have for our liberties, our Constitution, and our history as a Nation. Worst of all, it strikes a devastating blow to our national unity, and our unity is what makes us great. While we all come from different backgrounds and may worship different gods, we can all come together as Americans under our flag. We can disagree on the most challenging issues in our great democracy and have great debate, but at the end of the day we know that our flag is still flying and it represents all of us together, united. The soldier serving overseas understands it in the same way that the World War II vet saluting "Old Glory" on Memorial Day does. It is an unspoken pride and it comes from the heart. It is not something easily explained. It is something easily understood.

Today, we have the opportunity to affirm our commitment to our uniquely American values and to uphold the will of the American people. I say that because 49 States, including my home State of Florida, have asked us to take action to protect the flag. This will require amending the Constitution, an action which is not to be taken lightly. But it is an action that our Founding Fathers deemed appropriate on issues of integral national importance, and I believe this is one of them. This, I believe, is what the American people are asking us to do, for those individuals who have fought to preserve our freedom and for those individuals who are interested in the future of our country.

I urge support for this rule, and I urge thoughtful consideration on the final vote on the matter before us.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I thank my dear friend the gentleman from Florida (Mr. GOSS) for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, I join the gentleman from Florida (Mr. GOSS) in cosponsoring this resolution to prohibit desecration of the flag.

Mr. Speaker, as one who served in World War II, I served not only to defend our flag but also, and probably even more importantly, I served to defend the ideas for which the flag stands.

Still, I do not believe that people should be allowed to desecrate the flag. I think there are far better ways to express unhappiness than by engaging in an act that so many American citizens find offensive.

Mr. Speaker, every time I meet with American Legion veterans, they tell me their number one priority is protecting the flag that they fought so hard to defend. I think this is the least this country can do for these men and the many other Americans who risked their lives for the United States to grant that wish to them.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield 5 minutes to the distinguished gen-

tleman from California (Mr. CUNNINGHAM), a man whose experience on behalf of his Nation is well-known to those who know him. We are very proud to have him be the author and lead speaker on this.

Mr. CUNNINGHAM. Mr. Speaker, first of all, I would say that even though I am the author of this amendment, I am not the author of this amendment. I was just flying close wing on Congressman Solomon, a Marine Corps who always hates to hear that the Navy owns the Marine Corps. Jerry Solomon since 1990 has persevered on this particular issue. When he retired, he asked myself and his replacement to push the issue, to bring it before the American people and have a constructive dialogue.

In 1989, in a 5-4 decision, the Supreme Court wiped out 200 years of tradition. In 1990, there was another vote but just for a resolution. The Supreme Court acted again with the same five individuals. The Supreme Court has told us that this is the only way to proceed, and many legal scholars agree.

Mr. Speaker, I would say from the onset, some of my colleagues have a difference of opinion on this issue. This has won by over 300 votes every time it has come up and we will pass this here today with over 300 votes. But I would chastise anybody that would characterize an opponent of this particular issue as nonpatriotic. As a matter of fact, I would stand side by side with that individual, because people have different beliefs on this issue. Fortunately, they are in a minority of those.

Secondly, that 85 percent of the American people feel that those individuals are wrong that oppose this particular amendment. Forty-nine States have asked us to pass this amendment, and their legislatures and the governors. The 50th State has actually passed this in the House and the Senate but not in the same year, and they plan to do it.

Some people will say that this is an unnecessary Federal statute, but yet the Supreme Court told us that this is necessary.

I would ask my colleagues not to bring a circus event, of bringing bandanas, underwear, those kinds of things with the American flag on them. That is not what we are talking about here. We are talking about the desecration of an American flag.

There would be those people that say it abridges the first amendment. Legal scholars again disagree, that this is expressive conduct, not actual speech; that no one is prevented from expressing themselves on an idea such as the flag through speech, or any other manner, except for the desecration of a flag.

We are not talking about burning handkerchiefs or underwear as some of my colleagues have brought forward or other things. We are talking about the American flag. This amendment is supported by 120 different organizations. The Flag Alliance has put together a

grassroots. Eighty-five percent of the citizens, 49 States, and prior to the Supreme Court decision, by one vote, 48 States already had laws in which they did not feel that the first amendment was abridged.

In 1995, this House passed this 312-120. We lost it by three votes in the Senate. Since that time, we have had a change in the Senate to where now we can pass this bill in the Senate. This bill can go forward. In 1997, we passed it in the House but we got tied up with other judiciary legislation and it was not taken up in the Senate.

Mr. Speaker, this is the opportunity that we have been waiting for since 1989, not only in the House and in the Senate, the American people, but every State legislature in this country that disagree with the minority dissenting views on this particular issue. The Citizens Flag Alliance has put together a good coalition. Jerry Solomon, the original author of this, has put together a coalition.

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And for those that would chastise us saying this is a political issue, I would beg difference with them. For many of us, and including my friend the gentleman from Massachusetts (Mr. MOAKLEY), this is a deeply reserved and caring issue for us, important to the core, to the heart, and to the mind and the soul. If anything, this brings unity to people, it brings freedom and the idea of what the flag stands for, and for those reasons we go forth with this amendment with hope and prayer that this amendment will pass in the House and Senate, it will be ratified by three-quarters of the States, which we agree that it will be.

I thank the chairman of the committee, the gentleman from Illinois (Mr. HYDE), the gentleman from Florida (Mr. CANADY) of the subcommittee and my colleagues on both sides of the aisle for the support of this amendment.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. TRAFICANT).

(Mr. TRAFICANT asked and was given permission to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I support the rule, I support the amendment. I want to commend former Member Mr. Solomon and the Duke-ster, the gentleman from California (Mr. CUNNINGHAM), and all those involved.

My colleagues, in some cities in America it is illegal to kiss in public. It is illegal to sing and yodel in public. It is illegal to ride a skate board. It is illegal to burn trash and to burn leaves, but someone can burn the flag. In America it is illegal to tear the labels off of pillows, it is illegal to touch or desecrate a mailbox, but someone could literally rip the stars and stripes off our flag.

Beam me up.

Mr. Chairman, I have been listening to all the scholars. They say the Con-

stitution allows for Americans to burn the flag, and the courts have ruled that Americans can burn the flag. That is why today we must change and move the process to change the Constitution.

Let me remind Members the first Constitution permitted and allowed slavery, slavery. The first Constitution allowed and in fact treated women and Native American Indians like cattle. That was wrong, and it was right to change the Constitution.

The bottom line is a people who do not honor and respect the flag do not respect their neighbors or their country, and a people that do not honor and respect the flag do not actually respect themselves, nor our great freedoms.

I say today if dissidents wish to express their first amendment rights and to proclaim their political statements: Burn their money, Burn their brasieres, Burn their pantyhose, Burn their BVDs, But leave the flag alone.

The flag is sacred, and it is time that we start protecting it and paying tribute and honor to our flag which represents our great republic.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas (Mr. PAUL).

(Mr. PAUL asked and was given permission to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, I appreciate the comments of the gentleman from California earlier that said that those of us who oppose this amendment should not be challenged on our patriotism. That certainly should be true. But I do rise in support of the rule because obviously it is constitutional to amend the Constitution; that we cannot object to. But I do have questions about what we are doing to the spirit of America, the spirit of the Constitution in a desire to protect a symbol.

Not too long ago Hong Kong was taken over by Red China. The very first law that Red China passed on Hong Kong was to make it illegal to burn a flag. The first time Hong Kong ever had that law, the British do not have a law like this. Red China, as soon as they took over Hong Kong, they pass a law to make it illegal to burn a flag.

But it does not stop there. On an annual basis we, the Congress, require the State Department to report to us any human rights violations around the world. The human rights violations in Red China are used specifically to decide whether or not they will get Most Favored Nation status. Last year, in 1998, the report came to the Congress in April of this year, and it reported that indeed there were violations of human rights. What were the human rights violations that we are condemning by this report and we are going to use against the Red Chinese? Two individuals burned the Hong Kong or the Red Chinese flag.

I think it is just a little bit hypocritical if we want to claim the Red Chinese are violating human rights because somebody there burned the flag at the same time we intend to pass that law here.

The spirit of the Constitution did not require this. We have had 212 years of our history since the Constitution was passed. We have not had this pass. We have not required this. Where is the epidemic? I cannot remember ever seeing, and of course I am sure it has been on television where an American citizen burned the flag. It must happen; it will happen again. As a matter of fact, it will probably happen more often because there will be more attention given to it once this law is passed.

Where I see the burning of the American flag, where I get outraged is when the foreigners are doing it because they are so defiant about our policies around the world. But that is a lot different. We are not dealing with that hatred toward America that we are dealing with here.

We are dealing with a few deranged individuals that were willing to challenge the spirit of the Constitution. They say this is not free speech, but it is indeed expression, just as religion is, just as the study of philosophy is, just as our personal convictions. To say that this is not protected under the Constitution, the current Constitution, I think is quite wrong. I think we do protect that.

And, yes, one would say this is egregious, this is horrible, to burn this flag. But that is the purpose of the first amendment, to protect obnoxious and uncomfortable speech.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say in response to what the gentleman from Texas (Mr. PAUL) has said about the Chinese's first act was to ban the burning of flags, I understand that was also the same act of Adolf Hitler.

Mr. Speaker, I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

I just simply wanted to make a couple of comments before I yield back. I think that the flag is obviously very much part of our life every day here. We start out with the pledge, many of our institutions. When we sing the national anthem, whatever occasion, before sports events, we speak of what so proudly we hailed before the twilight's last gleaming. When we have the tragedy of death in our military, we have the presentation of the flag at the ceremonial part of that process, and I think quite often the flag is so much part of our life that when somebody desecrates it in any way most Americans are outrageously offended.

I suppose for many overseas who still see the American flag as the last best hope for freedom and opportunity it must be puzzling if that flag is devalued in its homeland, in the United States of America. What would that mean if one sees Americans burning the American flag? It is a curious message to send.

I believe that there are limitations on the first amendment. I think they

have been recognized, I think they are appropriate for public safety and public well-being. They are well understood. I believe this is an area where a case can be made clearly for the well-being of the United States of America and its people. We should accept the responsibility of protecting the one symbol that unites us, our flag.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REQUEST FOR POSTPONEMENT OF FURTHER CONSIDERATION OF H.J. RES. 33, CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES, AFTER GENERAL DEBATE TODAY; TO A TIME DESIGNATED BY THE SPEAKER

MR. CANADY of Florida. Mr. Speaker, I ask unanimous consent that after debate on H.J. Res. 33, notwithstanding the operation of the previous question, it may be in order at that point for the Chair to postpone further consideration of the bill to a time designated by the Speaker on which consideration may be resumed at a time designated by the Speaker.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Florida?

Mr. WATT of North Carolina. Reserving the right to object, Mr. Speaker, let me be clear, and I do not intend to object. What I have been told is that the debate on the substitute amendment will be conducted tomorrow. I assume we are not contemplating carrying it beyond tomorrow; are we?

Mr. CANADY of Florida. Mr. Speaker, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Florida.

Mr. CANADY of Florida. That is my understanding. We would proceed with general debate today and then conclude consideration of this bill tomorrow with the debate on the substitute amendment.

Mr. WATT of North Carolina. That is a little different than the unanimous-consent request.

I guess the only thing that leaves me a little uneasy is that this could go on, and on, and on.

Mr. CANADY of Florida. If I could address that, I believe that my objection to that would be as great or perhaps greater than the objection lodged by the gentleman from North Carolina (Mr. WATT), so I believe that it is the intention to have this bill come to a final vote tomorrow morning.

Mr. WATT of North Carolina. I wonder if the gentleman might consider revising his unanimous-consent request

to that effect, and then if it becomes necessary to go beyond tomorrow, we could come back and address that tomorrow.

I am just trying to make the record absolutely clear on this. I do not think either he or I can bind the leadership to this.

Mr. CANADY of Florida. Mr. Chairman, I will withdraw the unanimous-consent request, and we will discuss it further.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 775. An act to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 775) "An Act to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints from the—

Committee on Commerce, Science, and Transportation: Mr. MCCAIN, Mr. STEVENS, Mr. BURNS, Mr. GORTON, Mr. HOLLINGS, Mr. KERRY, and Mr. WYDEN;

Committee on the Judiciary: Mr. HATCH, Mr. THURMOND, and Mr. LEAHY; and

Special Committee on the Year 2000 Technology Problems: Mr. BENNETT and Mr. DODD; to be the conferees on the part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 1554, SATELLITE COPYRIGHT, COMPETITION, AND CONSUMER PROTECTION ACT OF 1999

Mr. ARMEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1554) to amend the provisions of title 17, United States Code, and the Communications Act of 1934, relating to copyright licensing and carriage of broadcast signals by satellite, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gen-

tleman from Texas? The Chair hears none and, without objection, appoints the following conferees:

From the Committee on Commerce, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

Messrs. BLILEY; TAUZIN; OXLEY; DINGELL; and MARKEY.

Provided that Mr. BOUCHER is appointed in lieu of Mr. MARKEY for consideration of sections 712(b)(1), 712(b)(2), and 712(c)(1) of the Communications Act of 1934 as added by section 104 of the House bill.

From the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

Messrs. HYDE; COBLE; GOODLATTE; CONYERS; and BERMAN.

There was no objection.

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POSTPONING FURTHER CONSIDERATION OF H.J. RES. 33, CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES, AFTER GENERAL DEBATE TODAY TO A TIME DESIGNATED BY THE SPEAKER

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that after debate on H.J. Res. 33, notwithstanding the operation of the previous question, it may be in order at that point for the Chair to postpone further consideration of the bill until the following legislative day on which consideration may resume at a time designated by the Speaker.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Florida?

There was no objection.

CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES

Mr. CANADY of Florida. Mr. Speaker, pursuant to House Resolution 217, I call up the joint resolution (H.J. Res 33) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 33 is as follows:

H.J. RES. 33

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein),

SECTION 1. CONSTITUTIONAL AMENDMENT.

The following article is proposed as an amendment to the Constitution of the